

***NONCONFORMING SITUATIONS*****§ 153.220 NONCONFORMING SITUATIONS.**

This ordinance places restrictions on the use and development of land by establishing minimum standards. In many instances, land and improvements were developed or proposals for the use of land were initiated prior to the adoption of this ordinance. These uses may not meet the minimum standards contained in this ordinance because they were developed under no specific standards or under standards which were less restrictive. The Board of Commissioners recognizes that the strict application of these standards to those uses may create certain hardships for the property owner. The Board also recognizes that these nonconformities may be allowed to continue in use in accordance with the spirit of this ordinance, even though not meeting the ordinance standards. Therefore, the uses or situations described below are accorded a nonconforming status with all the specific privileges and limitations set forth to govern their existence.

Many nonconformities may continue, but the provisions of this chapter are designed to curtail substantial investment in nonconformities, and to bring about their eventual improvement or elimination in order to preserve the integrity of this section and the character of the town and its extraterritorial jurisdiction.

It is the intent of this ordinance to allow the continuation of any nonconformity and the repair and maintenance of such nonconformities, but to require that any expansion, improvement, or alteration to such situations obtain a variance to determine whether it will substantially injure the value, use and enjoyment of neighboring properties according to § 153.287(C).

(’72 Code, § 1501) (Ord. 477, passed 2-8-88; Am. Ord. 872, passed 8-8-94)

**§ 153.221 NONCONFORMING LOTS.**

A nonconforming lot is a lot which does not meet the minimum dimensional requirements for width, area, front, side or rear yard, height or unobstructed open space, for the district in which it is located, but was recorded by plat or description in the office of the Register of Deeds of Mecklenburg County prior to the adoption of this section. Such a lot can either be vacant or contain a structure. A nonconforming lot may be used for any of the uses permitted by this section in the district in which it is located, or any structure on this type of lot may be improved or expanded in accordance with the following standards.

(A) The minimum requirements for front, side and rear yards, heights of structures and unobstructed open space for

the district must be met.

(B) The lot in question does not adjoin a lot which could be combined with it to make it conforming as provided for in § 153.035.

(’72 Code, § 1502) (Ord. 477, passed 2-8-88; Am. Ord. 872, passed 8-8-94)

**§ 153.222 NONCONFORMING STRUCTURES.**

A nonconforming structure is any structure that existed prior to the adoption of this section, or the effective date of any amendment thereto, which does not comply with the minimum requirements of this section in the district in which it is located. A nonconforming structure devoted to a use permitted in the zoning district in which it is located may continue only in accordance with the following limitations.

(A) Normal repair and maintenance may be performed to allow the nonconforming structures to maintain a safe and sound condition.

(B) Except as provided in divisions (C) and (D) below, a nonconforming structure shall not undergo a change of use, renovation or expansion.

(C) A nonconforming structure may undergo a change of use or renovation without having to bring the structure into conformity with the requirements of these regulations, provided that:

(1) The change in use or renovation does not increase the floor area of the structure;

(2) The number of parking spaces provided for the use and the standards for landscaping and buffering are in conformity with the requirements of these regulations.

(D) A nonconforming structure may be expanded, without bringing the nonconforming structure into conformity with these regulations, only if the part of the structure to be expanded and the area of the lot into which the expansion is taking place are brought into conformity with the requirements of these regulations.

(E) A nonconforming structure shall not be moved unless it thereafter conforms to the standards of the zoning district in which it is located.

(F) An existing manufactured home as a principal residential building on an individual lot or located in a nonconforming manufactured housing park or subdivision in operation at the time of the adoption of these regulations may be replaced with another manufactured home provided the number of manufactured home units may not be increased beyond the number available before replacement and the replacing manufactured home must not create nonconforming

yards, separation distances, or increase existing nonconforming yards or separation distances. ('72 Code, § 1503) (Ord. 477, passed 2-8-88; Am. Ord. 872, passed 8-8-94)

#### **§ 153.223 NONCONFORMING OPEN USES OF LAND.**

A nonconforming open use of land is an open use on a lot, when the only buildings are incidental and accessory to the principal open use which was in existence prior to the adoption of this chapter and which would not be permitted by this chapter in the district in which it is located. Uses such as storage yards, used car lots, auto wrecking, salvage yards, golf driving ranges, and miniature golf courses are examples of open uses. A legally established nonconforming open use of land may be continued but is subject to the following limitations.

(A) When a nonconforming open use of land has been changed to a conforming use, it may not later be used for any nonconforming use.

(B) A nonconforming open use of land may only be changed to a conforming use.

(C) A nonconforming open use of land that is discontinued for more than one year may not be reestablished, and all subsequent uses of the site must be in conformance with the particular district regulations. Any vacancy or nonuse of the land regardless of the intent of the owner or tenant will be considered discontinuance for the purposes of this requirement.

(D) A nonconforming open use of land may not be enlarged to cover more land that it occupied when it became nonconforming. ('72 Code, § 1504) (Ord. 477, passed 2-8-88) Penalty, see § 153.999

#### **§ 153.224 NONCONFORMING USES OF STRUCTURES.**

A nonconforming use of a structure is a use in a structure existing prior to the adoption of this chapter which would not be permitted by this chapter in the district in which it is located. This type of use may be continued subject to the following limitations.

(A) A nonconforming use of a structure may be changed to another nonconforming use of the same classification or of a higher classification or to a conforming use. The determination of the classification of the use is based on the district in which the use would be allowed by right under this chapter. The change from one nonconforming use to a different nonconforming use must not generate any more truck or automobile traffic, noise,

vibration, smoke, dust, or fumes than the original nonconforming use.

(B) Once a nonconforming use of a structure has been changed to a conforming use, it will not be allowed to return to any nonconforming use.

(C) Maintenance and repairs necessary to keep a structure which houses a nonconforming use in safe and sound condition are permitted.

(D) A nonconforming use of a structure may be enlarged or extended only into portions of the structure which existed at the time that the use became nonconforming and which were designed or arranged to accommodate the use. No structural alterations are allowed to any structure containing a nonconforming use except for those required by law or an order from the office or agent authorized by the Board of Commissioners to issue building permits to ensure the safety of the structure. Existing nonconforming residential uses in a business or industrial district may be enlarged or extended if no additional dwelling units result from the enlargement or extension. (Ord. No. 1418, passed 2-14-05)

(E) A nonconforming use of a structure that is abandoned for more than one year may not be reestablished, and all subsequent uses of the structure must be in conformance with the particular district regulations. ('72 Code, § 1505) (Ord. 477, passed 2-8-88; Am. Ord. 875, passed 5-9-94) Penalty, see § 153.999

#### **§ 153.225 RECONSTRUCTION OF DAMAGED STRUCTURES.**

When a structure on a nonconforming lot or a structure containing a nonconforming use is damaged by fire, flood, wind, or act of God, or condemnation proceedings, the structure may be repaired and restored to its original dimensions and condition as long as the reconstruction is completed within one year of the occurrence of the damage. ('72 Code, § 1506) (Ord. 477, passed 2-8-88)

#### **§ 153.226 NONCONFORMING SIGNS.**

A nonconforming sign is one which existed prior to the adoption of this chapter but which does not meet the standards for signs for the use or the district in which it is located. A nonconforming sign may be allowed to continue subject to the following limitations.

(A) Nonconforming signs made of paper, cloth, or other nondurable materials or free standing signs not attached to a building or to the ground must be removed within six months of the adoption of this chapter.

(B) A nonconforming sign will not be replaced with another nonconforming sign. However, the replacement of poster panels, painted boards, or other demountable materials on nonconforming signs is allowed.

(C) Minor repairs and maintenance of a nonconforming sign, such as repainting, electrical repairs, and neon tubing repairs will be permitted. However, no structural repairs or changes in the size, shape, or message of a sign will be permitted, except to make the sign comply with the requirements of these regulations.

(D) New signs related to legally established nonconforming uses may be erected, provided they comply with the sign regulations applying to the use in the most restricted district in which the use is permitted.

('72 Code, § 1507) (Ord. 477, passed 2-8-88) Penalty, see § 153.999

#### **§ 153.227 CHANGES IN ZONING.**

Any nonconformance created by a change in a zoning classification or district boundary or by a change in the regulations in this chapter will be regulated by the provisions of this subchapter.

('72 Code, § 1508) (Ord. 477, passed 2-8-88)